

United States District Court
NORTHERN DISTRICT OF CALIFORNIA

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AT&T CORPORATION,

SUMMONS IN A CIVIL CASE

SC

CASE NUMBER:

C 07 T 2440

v.

DATAWAY INC. and dba DATAWAY DESIGNS,

TO: (Name and address of defendant)

DATAWAY INC. and dba DATAWAY DESIGNS
180 REDWOOD STREET
SAN FRANCISCO, CA 94102

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

TIMOTHY CARL AIRES, ESQ.
AIRES LAW FIRM
180 NEWPORT CENTER DRIVE, SUITE 260
NEWPORT BEACH, CA 92660

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

Richard W. Wieking

CLERK

Helen L. Almaden

(BY) DEPUTY CLERK

DATE MAY 7 2007

STAMINAL
FILED
07 MAY 7 PM 3:31
RECEIVED - 7 MAY 2007
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 Timothy Carl Aires, Esq. (138169)
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9 AT&T CORPORATION

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10
11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA, NORTHERN DIVISION

SC

13 AT&T CORPORATION,

14 Plaintiff,

v.

15 DATAWAY INC. and dba DATAWAY
DESIGNS,

16 Defendants.

17 Case No. 07-2440

18 COMPLAINT FOR RELIEF

19 (DEMAND FOR JURY TRIAL)

20 [F.R.C.P., Rules 8 and 38]

21 Plaintiff AT&T Corporation, by and through its undersigned attorneys, hereby alleges
22 against Defendants, and each of them, as follows:

23 PARTIES, JURISDICTION AND VENUE

24 1. Plaintiff AT&T Corporation is a corporation organized and existing under the
25 laws of the State of New York and, therefore, citizen of the State of New York authorized
26 to do business in the State of California providing telecommunications services under tariffs
filed with the Federal Communications Commission.

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28 ///

2. Plaintiff is informed and believes, and based thereon alleges, that at all times relevant hereto, Defendant Dataway Inc. was a corporation organized and existing under the laws of the State of California and, therefore, a citizen of the State of California with its principal place of business within this district and located at 180 Redwood Street, San Francisco, California 94102 and doing business as Dataway Designs.

3. Plaintiffs are ignorant of the true names and capacities of the Defendants sued herein as Does 1 through 10, inclusive, and therefore sues said Defendants by such fictitious names. Plaintiff will amend this complaint to allege the true names and capacities of said Defendants when the same are ascertained. Plaintiff is informed and believes, and based thereon alleges, that each of the fictitiously named Defendants was jointly responsible in some manner for the transactions and/or occurrences herein alleged, and that the Plaintiff's damages were proximately caused in part by the acts or omissions of said Defendants.

4. Plaintiff is informed and believes, and based thereon alleges, at all times herein of relevance, each of the Defendants was the agent or employee of each of the remaining Defendants, and in doing the acts herein alleged, was acting within the course and scope of such agency with the permission and consent of his/its co-defendants.

5. This Court has subject matter jurisdiction pursuant to Title 28 U.S.C. §1331 and 47 U.S.C. §201 et seq.

6. This Court is the proper court for the trial of this action under Title 29 U.S.C. §1391(a)(2).

FIRST CLAIM FOR RELIEF

(Liability Under 47 U.S.C. §201 et seq. Against All Defendants)

1111

1 7. Plaintiff incorporates by reference each and every allegation of Paragraphs 1
2 through 6 of this complaint as though the same were fully set forth herein.

4 8. At all times relevant hereto, Plaintiff provided telecommunications services to
5 Defendants pursuant to AT&T Tariff F.C.C. No. 1, Section 2.4 or AT&T Tariff F.C.C. No.
6 30 which makes Defendants liable for the payment of charges for telecommunication calls
7 and related services. Pursuant to AT&T Tariff F.C.C. No. 1, Section 2.5, payment is due
8 upon presentation of invoice.

10 9. Defendants were billed for charges incurred when its telephone system was
11 allegedly compromised. These charges amount to \$17,856.30 and were included on invoices
12 presented to Defendants. Pursuant to AT&T Tariff F.C.C. No. 1, Section 2.5, payment was
13 due upon presentation of the invoices. Alternatively, payment is due under AT&T Tariff
14 F.C.C. No. 30.

16 10. Neither the whole nor any part of the amount due has been paid by Defendants,
17 although demand therefor has been made and there is now due and owing from Defendants
18 to Plaintiff the sum of \$11,534.67, together with prejudgment interest of \$5.69 per day from
19 September 25, 2006 using the rate of 18% per annum pursuant to AT&T Tariff F.C.C. No.
20 1. Section 2.5.4.

SECOND CLAIM FOR RELIEF

(Reasonable Value [Quantum Meruit] Against All Defendants)

25 11. Plaintiff incorporates by reference each and every allegation of Paragraphs 1
26 through 10 of this complaint as though the same were fully set forth herein.

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1 12. Defendants have become indebted to Plaintiff for services rendered to
2 Defendants at their special instance and request who then and there agreed to pay the sum
3 of \$11,534.67 for the services which was their reasonable value.

4

5 13. Neither the whole nor any part of the amount due has been paid by Defendants,
6 although demand therefor has been made and there is now due and owing from Defendants
7 to Plaintiff the sum of \$11,534.67, together with prejudgment interest of \$5.69 per day from
8 September 25, 2006 pursuant to AT&T Tariff F.C.C. No. 1, Section 2.5.4.

9

10 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them,
11 as follows:

12

13 1. For \$11,534.67, together with prejudgment interest of \$5.69 per day from
14 September 25, 2006 pursuant to AT&T Tariff F.C.C. No. 1, Section 2.5.4.;

15

16 2. For costs of suit, including reasonable attorney's fees pursuant to AT&T Tariff
17 F.C.C. No. 1, Section 2.5.3(E); and

18

19 3. For such other and further relief as the Court may deem just and proper.

20

21 DATED: April 30, 2007

AIRES LAW FIRM

22

23 By: _____

24 Timothy Carl Aires, Esq.
25 Attorney for Plaintiff
26 AT&T CORPORATION

1 **DEMAND FOR JURY TRIAL**
2

3 DEMAND IS HEREBY MADE for trial by jury in accordance with Federal Rules of
4 Civil Procedure, Rule 38.

5
6 DATED: April 30, 2007

AIRES LAW FIRM

7
8 By: 

9 Timothy Carl Aires, Esq.
10 Attorney for Plaintiff
11 AT&T CORPORATION

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